THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.34218 OF 1997

DATED: 03-10-2007

BETWEEN

B.V. Venkata Reddy,
S/o. Gurivi Reddy,
R/o. Chinnachellaragunta
Village, Baireddypalle (M),
Chittoor District and another.

...PETITIONER

AND

The Special Commissioner of
Land Revenue, Board of Revenue,
Abids, Hyderabad and five others.

...RESPONDENTS

ORDER:

Petitioners question the order of the Special Commissioner, Land Revenue; in proceedings No.BC W2/1987/94 dated 09.08.1997 in setting aside the order of the Joint Collector in proceedings No.D.Dis.B3/10737/93 dated 08.03.1994.

2. The brief facts of the case are that the father of the fifth respondent herein viz. Kalappa was assigned an extent of Ac.1.16 cents of land in Sy.No.424/1C and Ac.1.08 cents in Sy.No.424/2 of Peddachallarangunta Village, Baireddypalle Mandal, Chittoor District vide DKT.No.2434/4/79 dated 24.04.1979 by the then Mandal Revenue Officer of Baireddypalle. Thereafter, the sixth respondent herein resident of the aforesaid village filed a representation dated 17.03.1993 before the Collector to cancel assignment of the said land in favour of the father of the fifth respondent and to assign the

said land in his favour. The said representation was forwarded to the Mandal Revenue Officer, Baireddypalle for enquiry and the Mandal Revenue Officer appears to have submitted a report dated 23.06.1993 that the original assignee – Kalappa – father of the fifth respondent is no more and his family also shifted to their native place in Punganur Mandal and the name of the fifth respondent is recorded in No.2 Adangal as enjoyer of the fifth respondent is handicapped person and he has no other land except the land in his possession. Accordingly, the Mandal Revenue Officer recommended for cancellation of the assignment of the land made in favour of the father of the fifth respondent.

3. Pursuant to the said report, the Joint Collector issued a show cause notice 08.03.1993 to the fifth respondent and after hearing him the assignment of the land was cancelled on the ground that the originally assignee – Kalappa was a village Munsif when he was assigned the land and he never cultivated the land and the fifth respondent is also a landlord having more than 32 acres and he is not entitled for assignment of the said land and the fifth respondent is eligible for the assignment of the said land and it can be assigned to another landless poor. Accordingly, the order of assignment was cancelled. As against the said order of the Joint Collector in proceedings in D.Dis.B3/10737/93 dated 08.03.1994 the fifth respondent filed a revision before the Special Commissioner, Land Revenue. The Special Commissioner – first respondent by the impugned order dated 09.08.1987 allowed the representation setting aside the order of the Joint Collector.

4. Questioning the said order this writ petition has been filed by the petitioners on the ground that admittedly the first petitioner was made a party to the revision before the Special Commissioner and after service of notice, counter and vakalat have been filed on his behalf, but without giving any reasonable opportunity the revisional authority passed final orders and

therefore, the said order is liable to be set aside and the impugned order requires to be remitted to the first respondent.

5. On the other hand the learned Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the seventh respondent submit that sufficient opportunity has been given and in fact, the first notice has been served on 16.01.1997 posting the case for hearing on 21.01.1997. Though notice had been served, the first petitioner did not attend the Court on 21.01.1997 and at the request of the revision petitioner the matter was adjourned to 25.02.1997; the second notice was also served on the first petitioner herein on 12.02.1997 posting the case on 25.02.1997. It is stated that vakalat was filed on 25.02.1997 but the first petitioner has not advanced any arguments.

6. It is not in dispute that notice was served on the first petitioner and the first notice was served on 16.01.1997 and the second notice was served on 12.02.1997 and there is no record that goes to show that the petitioner has sought for an adjournment on 25.02.1997 after filing the vakalat. Therefore, it cannot be said that no reasonable opportunity has been given to the petitioner. A perusal of the impugned order goes to show that there was no material whatsoever to show that the assignment of the land was made by mistake and contrary to the Board Standing Orders in favour of late Kalappa. The Joint Collector passed order on an application filed by the sixth respondent herein dated 17.03.1993 and admittedly, the allegations made in the said representation of sixth respondent were found false and he was not a landless poor, therefore, he was not entitled for any assignment. If that be so, under the guise of the orders of the Joint Collector the assignment said to have been made in favour of the first petitioner in respect of 50 cents is also unsustainable.

As the cancellation of the assignment itself has been set aside,

the legal heirs of the original assignee are entitled for the said assignment as there was no violation of the assignment either transferring or using the said land for any other purpose. Therefore,

I do not see any merits in the writ petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

October 3, 2007
DSK